App. F. IX-1

Previous References.
Revenue 335-33 (1-3)
1938 (Army)
178-32 (1-3)

Letter References.

File No. 193.38
Serial Nos. 1-4.

PRESERVED

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 4.

Part B for September 1939.

SUBJECT.

Appeal petition of Bandi Mallaiya of Kankanihalli

No. 576 of 15-9-39.

re Army Recruiting Commissions.

WP 0418—GPB—22,500—29-8-36

Informs that the appeal has been dismissed for reasons set forth

Mwz appl 11 of 38-39

G. R. S. APP. F. III—1]

GENERAL AND REVENUE SECRETARIAT.

(Mwz)

NOTES.

File No. 193-38

FILE HEADING

Appeal petition of Bandi Mallaiya of Kankanhalli

FROM Bandi Mallaiya

No. — Dated 14.12.38 Received 15.12.38

Diary No. 717 | Enclos. 2 Spare copies — | Serial No. 1

BRIEF ABSTRACT OF LETTER

Appeals against the Mwz's Commissioner's order regarding the Extent and Terms of lease of Certain lands of Sri Begita Mutt at Kankanhalli.

NOTES AND ORDERS.

2 1) The appeal petn is submitted & stamped and filed in time. The order appealed against has been suspended by the P.A.D.

2) The petr prays for a stay order only in respect of the execution of the lease deeds pending final orders on the appeal. The reasons assigned for this are as in paras 6 & 7 of the P.A.D. The petr says that he executed

NOTES—First Sheet

WD 0283—GPB—3,750—25-1-38

2) Appeal re: lease deeds in 208 packets
Kandankaikkiruppu

Mes 3 File No. 192 of 193 8. | General and Revenue Secretariat

were contained in him after the recovery of the expert price as also the fine & after the Mahadhikari disclaimed all interest in the encroached portions & disowned responsibility in the matter. In the circumstances the request for a refund is for orders—

3) Further Maje S. No 296 corresponds to Re S. No 298 as seen from the Inam Register (Vide pp 74 & 75 of the Register) & also from the Inam register extract obtained from the Subaltern Superintendent of Inam records (Vide flags Mes 335-343-1-12) does not appear to be the Mahe property as this number is not among other Devadaya & Inam lands enrolled in the List. For orders if a reference in this point together with records relating to the case may be called for

17.12.38. 4) The records may be called for. There is no harm in the Authorities proceeding with the lease deeds till the appeal is decided

Gen. Secy 5) 19/12 for 19/12 for 17.12.38

GENERAL SECRETARIAT 17 DEC 1938 1705

6

20.12.38. 7 Issue memo No 1213 dt 21.12.1938 to the Mahe Commissioner Calling for records connected with the case and stating that his views about the question of the lease

Serial No.

deeds be held in abeyance till the appeal is decided.

8 The appeal ppn has been issued in ppr. II

The number and date of the letter issued to M.C. to stay [illegible]

C. 1008/38 dt. 21.12.38.

9) Memo dt. 21/12

No 1035 of 22.12.38 to Sri Bandi Mallaiah of Kankanalli intimating that a stay order has been issued, as prayed for.

Letter no C 993/38-39 of 7-3-1939 from the Muzrai Commissioner forwarding records relating to the appeal.

Further records received on 17/4/39 from the Office of the Muzrai Commissioner on the same subject.

10 These papers relate to an appeal against the order of the M.C. of 2/11/38 The present Senior Member of Council ahead the entertainment regarding to Boguvas of land effected by the appellant as the lessee of Sri Degila Mutt lands in Kankanalli viz S.Nos 274-5, 276+281.

11 The facts of the case are fully set forth in the preamble portion of the M.C's order regarding to ahead write the following

NOTE—Contn Sheet.

4)

May File No. 193 of 1938. General and Revenue Secretariat

Notifications contracted from the Talkar Final Talukdas of 25-26. in respect of the particular Survey portion of land on the bank of the Arkavati River adjacent to Degula Mutt land in Kankanhalli. —

S.No	Re.S.No	Takkadar.	Area encroached	S. Dd decision after obtaining the opinion of the Amildar —	
274	299	Malleyowda	3 Guntas.	He has ordered that an upset price of Rs 7½ per Gunta & 10 yrs assessment at 2½ per Gunta i.e. with a fine of ½ Re may be recovered & the encroachment continued to the Takkadar.	x Z
251	274	1 Bhandi Mallaiya (the Appellant) 2 Kala	16 Guntas.	Same as above Excepting that the fine in this case is Rs 3/—	x C
275	300	1 Rangaiya 2 Bhandi Mallaiya. (dd)	8 Guntas	Same as above except a fine of Rs 2/—	x D

12) The appellant in para 4 of the P. U. D says that he is in possession of portion of Re. S.No 298 & the encroachment adjacent to this S.No is stated to be 3 Guntas. Records received do not contain the Takkar Takkda in this case.

13) The appellant appears to have acquired possession of S.Nos 274, 275-6 & 251 since 1909 onwards as evidenced from one of the Statements received from the M.C Cutter

x A
x T

Serial No.

his letter No. C 87 of 30-31 of 13-5-32 (Vide Revy 178-29—6 post ref^e) & the encroachments adjacent to these S. Nos appear to have since been effected. The records bear out that necessary enquiry has been held by the S.D.O. before levying fine from the Appellant. The necessary fine etc & confirming the encroached lands in the name of the Appellant. The then Guru of the Mutt in his statement before the Amildar on 15/11/36 has admitted that he is not aware of the encroachments noticed by the Rev Officers.

(b) In connection with these encroachments the present Guru of the Mutt has on 18/1/38 before the TK Amildar stated that the encroached lands have already been added to the original Survey nos, that Jodi in respect of these is being levied from the Mutt, that the Appellant & other lessees of Mutt lands have not paid the fine etc from their pocket & that they have paid the same out of Mutt amount due to the Mutt & as such it may be treated as if money had been paid from Mutt funds — Records do not bear out this contention of the Swamiyaru.

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-38

6) Appeal No: encroached lands in Kandaketiya — adjacent to Devil. Mill lands.

Mis. File No. 15 3 of 1938. — General and Revenue Secretariat

The land is apparently Govt. land encroached on the bank of the Arkavatè River - Has accretion formed on it by the mill, an upset price, ten years' assessment & The fine have been collected from the Appellant & The encroachment Confined to the Talawadu Vè the appellant, & not on behalf of the Mill. (Vide orders of the D.R.O dt 7.5.27). The Mill authorities have not been from records appealed against this order, & on the other hand, the Appellant himself appealed to the D.C. about the high rate levied by the D.R.O & the D.C. Dismissed the appeal on the ground of the levy being reasonable. In these Circumstances whether the appellant's claim to the lands is tenable is for orders —

Ss 1st Records to directed person.

7/9/38 11) The lands encroached upon seem to be govt. lands adjoining the lands of the mill ~~cultivated by the appellants~~ according to the Talawadu Tahsildar. whether the appellant's claim to the land is established is a point for orders

20.6.38 17) This is an appeal against the order of the R.C. (now 2nd Member of Commission). The

Kuz Appeal No 110—38-39 Re: encroached Govt lands in Kankanhalli adjacent to Begila Muslims

General and Revenue Secretariat | Kuz File No. 193 of 193 8. | [App. F. III—2

Serial No.

x x

8 U.D.

facts are explained in the preamble to the R.C. order.

(18) The appellants claims that the portion of the river had encroached upon by him and confirmed and added on to the adjoining S. Nos after receiving from him the usual price on it should be deemed to be his property and should be excluded from the property of the Govt. The R.C. has held that in this case the encroachment was justified because the party owned the Govt's lands & that the party was allowed to retain the land because of his being in possession of the adjoining land & that therefore it was equitable that the encroached area should go with the adjoining land.

(19) The party contends that when the encroachments were

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-38

8)

Appeal re: encroached lands in Kankanhalli adjacent to Sri Agila mutt lands.

May File No. 193 of 1938. | General and Revenue Secretariat

Asst Sec

Retained, Jakkaraj Lakshman was made to appear before the Mutt disclaimed all responsibility & interest in the encroached portions with the result that the Lakshmanadas had to pay the price etc, and that the whole matter as regards the encroachment was as between them & the Govt.. There is some doubt in this contention also. Further the Mutt's interests do not also suffer:

a) Q is for order whether the case should be heard.

Sd/ 3/8/38

GENERAL SECRETARIAT
3 MAY
4567

Given for 16/8 for personal talks as directed in person. Recorded.
Gs 15/8
Asst Sec

b) This is an appeal against the order of the M.C. (present Deputy Member of Council). It is true that the appellant was in a position to encroach on the river bed, because he was a lessee of the adjoining lands, which are the properties of the Mutt. But the following circumstances have to be taken into consideration before coming to a decision viz

Mus Appeal No 38-39 about encroached lands adjacent to Degila Muslim graveyard lands.

1151

General and Revenue Secretariat — Mus File No. 193 of 1938. — [App. F. III—2

Serial No.

9

that the Mudr or the Presiding Maulavi at the time disclaimed all responsibility for the encroachment & did not press for the encroached land being confirmed to the Mudr, agreeing to pay the upset price &c; that the appellant has rendered the lands fit for cultivation & planted coconut, cutea &c on the same & that he has paid the upset price, assessment &c levied on the D.O.'s. One other point that may be raised is whether any assessment was levied on these Mus'g lands, subsequent to the orders on the D.O.'s & who has paid the same. The contention of the Maulavi that the upset price &c levied on the lands, was paid and the same amount requires to be substantiated. The letter of the A.G.A.'s order shows that no such amount has been paid [illegible] the Maulavi or from Mudr funds.

) The case may be taken in appeal & by the 1st week of, i.e. there is no objection.

2nd Appeal

13

13-7-39

Mus 57 of 1937

Mun appl Nos 38-39 about encroached lands adjacent to Degula mutt grove lands - Kankanwadi

Mun File No. 173 of 1938.

General and Revenue Secretariat

SEP 5 1939
No. 2196

25 The Case has been posted to Saturday the 26th Aug 1939.

26 The Case was Called on 26th Aug 1939 & the Counsel for the appellant was present & heard along with the appellant. The respondent & his agent were present & heard. orders reserved. But before that Sarkar Orders if any about the encroachments on the Devasthan may be put up.

26/9/39

27) L.R Files 668.30.1HC & 309.31.1L2 sanctioning the conversion of the encroached areas as fragment & upset price of Rs 3/, per guntha on Land

1st. Member

579

ORDER.

28 The encroached portions were given to the owners of adjoining lands and were eventually merged in the respective survey numbers. The appellants cannot have any larger rights in respect of the encroached bits than they possess over the survey numbers originally in their possession. It has been since held that their status is that of tenants of the Mutt and this decision must apply to both classes of land. If the upset value and fine havebeen collected from the appellants it is but just that they should be reimbursed to the extent

1151

Muz appl no 11 of 38-39.

Serial No.

of these payments. The Mutt has agreed to this and the Muzrai Commissioner has also ordered that effect should be given to the offer made on this behalf by the Mutt.

29 In the circumstances, the appellants have no legitimate cause for complaint. The appeal is dismissed.

Dlle
6/9/39

Gr Opr Forms
6/9 — Issue Dlr 7/9/39

4 No 566 of 15/9/39 to the Muzrai Commissioner intimating that the appeal has been dismissed for reasons set forth therein

Memo no 567 of 15/9/39 to the appellants forwarding copy of the order passed on the appeal.

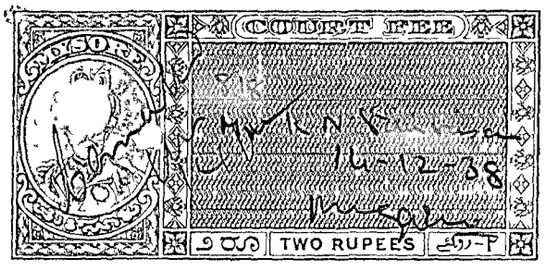
do 568 of 15/9/39 to the Swamiyaru of Sri Ucgilappalli - Kan Komballi by his agent forwarding copy of the decision passed in the appeal —

B

Next Contn Sheet

File No. of 193 .

General and Revenue Secretariat



Mys 193-38-1

712

15 DEC 1938

BEFORE THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE - BANGALORE.

Muz. Appeal No. 11 of 1938-1939.

Appellant:- Bandi Mallayya, son of Bandi Chennappa, - Kanakanahally.

The appellant abovenamed most respectfully begs to prefer this appeal against the order dated 2-11-1938 in Muzrai Appeal No. 23 of 1937-38, on the file of the Muzrai Commissioner - in Mysore, Bangalore - on the following - among other grounds:-

1. That in the matter of the resumption of Devadaya Inam lands belonging to Sri Degala Mutt of Kankanahalli, in pursuance of the Government Order in Muzrai Review Petition No. 9 of 1933-34, the Muzrai Commissioner in Mysore directed in his order Dis.No. 24/35-36 dated 7-8-1936, that the lands in question may be leased to the persons in possession for a period of 25 years commencing from 1st July 1936 subject to the condition of their paying the rent fixed and also -

subject

subject to the condition of their keeping up the garden lands in proper condition.

2. The Appellant is one of the persons in possession of some of the Inam lands and has in obedience to the said order, been paying rent regularly and the last payment of the rent due for the year 1937-38 was paid by him into the Taluk Treasury at Kankanahalli on 12-1-1938 and the Appellant has always been ready and willing to keep the Inam lands in his possession in proper condition.

3. But there is a dispute between him and the Muzrai authorities in respect of the extent of the land for which the lease deed has to be executed.

4. The Appellant is in possession of Re-survey Nos. 274, 299, 300 and a portion of Re-survey No. 298. That as per the Inam Title Deed the extent of the Inam granted to Degal Mutt and the extent to which the Degal Mutt has a legal claim is as follows in the respective survey numbers :

P.T.O.

Maji S. No.	Re.S. No.	Extent.
		A. G.
274	299	2 0 ✓
275	300	2 14 ✓ W
276	298	0 32 ——— not found
251	274	1 34 ✓ W
	Total.	6 30

The Degal Mutt can claim to be the landlord of only this extent of land of 6 acres and 30 guntas and it was this extent of land which was in contemplation of the Government when orders were passed in appeal and in Review, and the said orders can only relate to this extent of land, and out of these 6 acres and 30 guntas of land the Appellant is in possession of 5 acres and 25 guntas and his partner one Venkataramaniah is in possession of 1 acre and 5 guntas and they are ready and willing to execute the lease deed in respect of this - extent of land. But the Muzrai authorities require them to execute a lease deed for a larger extent of land. Hence the dispute.

5. The facts are that long prior to the time when the Swami of Degal Mutt set up his

set up his claim for these lands, and at a time when the Appellant and his partner were under the bonafide belief that they are the absolute owners of these lands, they encroached some portions of the - Government river bed and added on to their survey numbers and began cultivating the encroached portions in their own right.

6. That in the usual course the encroachment was brought on the Takrar Takta as per rules and in the course of enquiry the Swami of Degal Mutt disclaimed all interest in these encroached portions and declined all responsibility for the encroachment and threw the blame on the appellant and the other persons in possession of the lands as can be seen from his statemant recorded then.

7. That thereafter, accordingly, the then Sub Division Officer Mr. N. - Subba Rao, before whom the matter went up for orders directed in his orders dated 7-5-1927 that upset price at the rate of Rs. 7-8-0 per gunta be levied from the - appellant and other takrardars in addition to a fine of Rs. 0-8-0, 2-0-0, and - 3-0-0 respectively and ten years - - -

assessment

assessment at the rate of Rs. 0-2-0 per - gunta, and that the encroached portions be confirmed to the appellant and the other takrardars. The appellant and his partner have paid the said sums, and have therefore become the absolute owners of these encroached portions and the said encroached portitions cannot legally form portions of the Inam lands, and the Degal Mutt Swamy cannot have any right whatsoever in these encroached portitions.

8. The encroachments which are confirmed to the appellant are as follows:-

S. No. -	A. G.
299.	0 3
300	0 8
298	0 3
274	0 16
Total.	0 30

The total extent of encroachment is 30 guntas, and including this encroachment the present extent of lands which are in the possession of the appellant and his partner in the respective survey numbers is as - follows:-

S. No.	A. G.
299.	2 3

P.T.O.

S. No.	A. G.
300	2 22
298	0 35
274	2 0
Total.	7 20

The Amildar of Kankanahalli insisted on the lease deeds being executed for the total extent of 7 acres and 20 guntas of land. But the appellant begs to submit that the encroached bits of land having been confirmed to the takrardars, after notice to the Swami of Degal Mutt, the latter cannot have any claim for the encroached bits of land - and the appellant and the other takrardars have become absolute owners of these encroached bits of lands and are entitled to remain in possession of them and enjoy them in their own right directly as tenants of Government and the appellant is prepared to pay any assessment to Government that may be fixed in respect of these encroached bits of land. But the local Muzrai authorities and the learned Muzrai Commissioner before whom the matter went up in appeal have held that these bits of encroached land also form part of the original Inam

Grant,

Grant, and have directed that the appellant should execute the lease deeds in respect of these encroached bits of land also. It is respectfully submitted that it is illegal and the appellant cannot be compelled to do so.

9. The learned Muzrai Commissioner has failed to notice, that at the very inception the Degal Mutt Swami disclaimed all interest in these lands - and as such it was the appellant that had to pay the fine and other dues payable to Government in - respect of the encroached portitions. The statement which was recently recorded by the Amildar after the appellant filed his appeal before the Muzrai Commissioner, is totally inconsistent with the statement - given by him previously - and cannot at all be given any weight. The learned Muzrai Commissioner's order based on this statement is erroneous.

10. The learned Muzrai Commissioner has further failed to see that the - - Re-survey was introduced only about - - 6 years ago - during the pendency of this litigation - and when the matter was still subjudice. What was done at the time of Re-survey while the respective rights of the parties were still in dispute cannot -

afford

afford any test to determine the justice or equity of the appellant's contention.

11. The undertaking given by the Swami after the appellant filed his appeal, to repay the appellant the amount paid by him to the Government, is no ground at all for consideration, as the said undertaking is self serving and is in direct opposition to the statement previously given by him at the time of the Takrar Takta.

12. The Swami having by his conduct at the time of Takrar Takta, having disclaimed all interest in these encroached portitions, and having thus led the appellant to believe that he is the absolute owner thereof, and to act on that - belief, and improve the lands, cannot now turn round and claim any interest in these bits of land. He is estopped from doing so.

wherefore the appellant - respectfully prays that the order of the learned Muzrai Commissioner may kindly be set aside and orders be passed directing the local Muzrai Authorities to take the lease deeds from the appellant only in -

respect

respect of the Inam lands which belonged to the Degal Mutt and to leave out the - encroached bits of land which are in the possession of the appellant in his own right and not as a tenant of the Mutt, but as a tenant of the Government directly subject to the payment of any assessment that may be fixed.

(k) That as the local Muzrai Authorities are insisting on the Execution of the lease deeds in terms of the Muzrai Commissioner's order and in default of doing so to resume the lands, the appellant most - humbly and respectfully prays that pending the disposal of this appeal a Stay Order might kindly be issued staying the execution of the order of the Muzrai Commissioner. The Appellant will continue to pay the rent as usual notwithstanding the pendency of the appeal. The stay is prayed for only in respect of the execution of the lease deeds.

Bangalore.
14-12-1938.

M.N. Srinivasa

Advocate for the Appellant.

K. N. SRINIVASAN, M A . LL.B.,
ADVOCATE,
BANGALORE CITY.

COURT FEE
TWO RUPEES

Before the Government of His Highness the Maharaja of Mysore

ಕೋರ್ಟಿಗೆ

Muz. Appeal NO OF 1935 –1936

ವಾದಿ ಯಾ ಅರ್ಜಿದಾರ್ Appellant

Bauri Mallayya
Kanakanahally.

Vs.

ಪ್ರತಿವಾದಿ ಯಾ ಆಪ್ಪೋನೆಂಟ್

ಮು|| ರಾ|| ಕೆ. ಎಸ್. ಶ್ರೀನಿವಾಸ್, ಎಂ.ಎ, ಎಲ್‌ಎಲ್.ಬಿ., ಅಡ್ವೊಕೇಟ್,

ರವರಿಗೆ ..... Appellant ..... ಬರೆಸಿಕೊಟ್ಟ ವಕಾಲತ್ ನಾಮಾ

ಈ ಮೊಖದ್ದಮೆಯಲ್ಲಿ ತಾವು ನನ್ನ ಪರವಾಗಿ ಆಪೈರುವರಿವಿಗೂ ಕೋರ್ಟ್‌ನಲ್ಲಿ ವಿವಾದ ಜರುಗಿಸುವುದಕ್ಕೂ ನನ್ನ ಪರ ಆಗುವ ಎಲ್ಲ ವಿಧವಾದ ಆರ್ಡರುಗಳನ್ನೂ ಡಿಕ್ರಿಯನ್ನೂ ಜಾರಿಕ್ರಮ ನಡಿಸಿ ಹಣ ವಸೂಲು ಮಾಡಿಕೊಳ್ಳುವುದಕ್ಕೂ ರಾಜಿ ವಗೈರೆ ಫೈಸಲ್ಮಾಡಿಸತಕ್ಕ ಬಗ್ಗೆಯೂ ನನಗೆ ಕೋರ್ಟ್‌ನಿಂದ ಸಲ್ಲಬೇಕಾಗಿರುವ ಡಿಕ್ರಿ ಮೊಬಲಗೂ, ಶಿಲ್ಕು ಮೊಬಲಗೂ, ರೀಫಂಡು ಸ್ಟ್ಯಾಂಪು ಮೊಬಲಗೂ, ದಸ್ತೈವಜು ವಗೈರೆಗಳನ್ನು ವಾಪಸು ವಡೆಯಲಿಕ್ಕೂ ಸಹ ತಮಗೆ ಈಮೂಲಕ ಸಂಪೂರ್ಣ ಅಧಿಕಾರ ಕೊಟ್ಟಿದ್ದೇನೆ. ಅಲ್ಲದೆ ತಾವಾಗಲಿ ಯಾ ತಮಗೋಸ್ಕರ ಮತ್ತ್ಯಾವ ಲಾಯರಾಗಲಿ ಡಿಟೋ ಮೊಖದ್ದಮೆಯಲ್ಲಿ ನಡಿಸುವ ಎಲ್ಲಾ ಕೆಲಸಗಳನ್ನು ನಾನು ಖುದ್ದು ನಡಿಸಿದಂತೆ ಒಪ್ಪಿಕೊಳ್ಳಲು ಬದ್ಧನಾಗಿ ಇದ್ದೇನೆ.

L. T. [illegible] Bauri Mallayya.

ಈ ಮೊಕ್ತಾನಾಮೆ ಕೊಟ್ಟವರು ನನಗೆ ಪರಿಚಯಸ್ತರಾಗಿ ನನ್ನ ಸಮಕ್ಷಮ ರುಜು ಮಾಡಿರುತ್ತಾರೆ. } ಈ ಮೊಕ್ತಾರುನಾಮೆ ಅಂಗೀಕರಿಸಿ ಇದ್ದೇವೆ.

ಬೆಂಗಳೂರು

ತಾರೀಖು 14-12-1935

ಅಡ್ವೊಕೇಟ್ಸ್.

EIGHT ANNA

In the Court of the Assistant Commissioner at Supa.

Apl. : 22/07-32

Appellant :- Bandi Mallikarjuna, son of Bandi Channappa, Kankumbi village

vs.

Respondent : Gramina Sangha.

Subject. Regarding the alteration of terms of lease of certain lands belonging to the Sri Degula Mutt at Kankumbi Taluk.

Facts of the case

The inam lands enjoyed by the Sri Degula Mutt in Kankumbi Taluk which were alienated by the Government of the Mutt, were resumed from the possession of the alienees under order of the Government, but with a view to avoid hardships on the part of the alienees, Government ordered that the lease be extended for a period of [illegible] years. [illegible]

condition". The area of the Survey num. was adopted in the above was as per Resurvey measurements

2. The Appellant is one of the lessees who is in possession of the marginally noted Survey numbers in connection with the execution of the lease deed he encroached lands that the portions encroached by him upon the Arkavathi river bed viz 0-30 guntas in all as noted in the margin should not be included in the extent of lease and that there should not be a specific condition that fresh plants should be planted in place of the old dead ones. It is seen from the records that the tenants of the Trust lands had encroached upon the Arkavathi River Bed and that the matter was brought on Tahsildar Tahsildars in 1927 and after issue of notices both to the Trust authorities and the tenants, the encroached portions were confirmed to the respective tenants on receiving from them upset price, fine and ten years assessment as the Tahsildar disclaimed any responsibility for the encroachments. During the Resurvey, the encroached portions have all been added on to the respective Survey numbers. The Appellant contends that as he has paid for the encroached portions which have been confirmed to him they should not be included

S.No.	Old extent	New Survey Extent	Diffce	
274	2-0	299	2-3	0-3
275	2-14	300	2-22	0-8
276	0-32	298	0-35	0-3
251	1-24	274	2-0	0-16
	6-30		7-20	0-30

in the area to be leased out the Swami
gain of the truth in his statement dated
18-1-38 states that as the Lenants have
paid for the encroachments out of the
lease amount due to the Mutt, they
cannot claim the lands for themselves
more so as the lands are included in
the survey numbers themselves belong-
ing to the Mutt and that these tenants
may be detained to the Mutt, if neces-
sary by paying the amount received
from them, out of the Mutt funds."

The case came up for hearing on
22-8-1938.

Order No. Misc. Appl No. 2 of 37-38
Dated 2-11-1938.

Heard. Appellant and Advocate
and perused the records of the case.
As regards the first contention regard-
ing the encroached lands, it may be
pointed out that the Mutt was
able to encroach on the riverbed
because of his owning the Mutt's
lands on the banks of the river.
The Appellant never sought to claim
to retain the land because he was in
possession of the registered patta.
It is therefore impossible to say that
encroached lots should go with the re-
-spective survey numbers which adjoin
that as such lots have not been
-surveyed when the encroachments
portions were assigned to the

[illegible] ... [illegible] ... the Court.
... [illegible] ... to the Appellant
[illegible] ... the land from ... to upset price and
... [illegible] ... the undisclosed assets. This
... [illegible] ... other and [illegible] ...
... [illegible] ... The Bank is now ready to prepare a
... [illegible] ... sale-deed and it is
... [illegible] ... a time bound manner for pay-
... [illegible] ... the sale proceeds.

In view of the above facts,
... [illegible] ... the condition imposed that
... [illegible] ... should be made
... [illegible] ... and ... [illegible] ... this
... [illegible] ... a reasonable condition which
... [illegible] ... the withdrawal.

... [illegible] ...
... [illegible] ...

Copy ... [illegible] ... by Mr. K.V.S. ...
... [illegible] ... on 26.11.2
... [illegible] ... 29-11-38

... [illegible] ... 730
... [illegible] ... 1-00.
... [illegible] ... 0-40
... [illegible] ... 1-40

... [illegible] ... A.R ...

"Copy"

... [illegible] ...
Manager
Alur Com's Office

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. 1023/Muz 193-38-2 *Bangalore, Dated,* 20th December 1938

Official Memorandum.

The accompanying Appeal petition registered No. 717 dated 15th December 1938 received at the General and Revenue Secretariat from Bandi Mallaiya, Kankanhalli appealing against the Muzrai Commissioner's order of 2nd November 1938 in Muz. Appeal No. 23 of 1937-38 on the file of his Court is forwarded with compliments to the Muzrai Commissioner for submission of records relating to the case as -

Entire connected records of 1. The Taluk office. 2. The office of the Sub Division officer. 3. The Deputy Commissioner's office. 4. The office of the Muzrai Commissioner.	) detailed in the margin. He is further requested to hold in abeyance

his order about the execution of the lease deeds by the appellant till the appeal is decided by Government.

By order,

for General Secretary to Government.

Als.

App. F. G. 9]

GOVT. OF H. H. THE MAHARAJA OF MYSORE.

GEN. & REV. SECRETARIAT.

Misc 193-38-2

D.No 717 38-38

OFFICIAL MEMORANDUM.

No. 10238 21-12-38

The accompanying Petition Registered No. 717 dated 15/12/38 received at the General and Revenue Secretariat from Bandi Mallaiya Kankanhalli appealing against the order of D.C.S in Misc appl no 23 of 1937-38 on the file of this Court.

is forwarded, ~~together with its enclosures~~ to the M.C. for submission of records relating to the Case as detailed in the margin. He is further requested to hold in abeyance his order about the execution of the lease deed by the appellant till the appeal is decided by us.

Entire connected records of
(1) The Taluk office
(2) The Office of the S.D.O
(3) The D.C's Office
(4) The Office of the M.C.

By Order,

for Secretary.

BANGALORE,
20/12/1938

[P. T. O.

D Chayam Asst to C.

3/28/

W D 2369 -GPB—3,000— 14 6-27

ಅರ್ಜಿದಾರ್..... ....ತಾಲ್ಲೂಕು

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....ಗ್ರಾಮದಲ್ಲಿರುವ

.....ಗೆ

ಇಂಡಾರ್ಸ್ಡ್ ಹುಕುಂ.

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ವಿಷಯದಲ್ಲಿ ನೀವು ಗುಜರಾಯಿಸಿಕ್ಕೊಂಡ . .....

ಮೇರ್ಕ್ಕಮಿನ ಅರ್ಜಿಯನ್ನು ....ಬಗ್ಗೆ

....

.....ರವರ ಬಳಿಗೆ ಕಳುಹಿಸಿದೆ

ಬೆಂಗಳೂರು.

By Order,

Secretary.

GENERAL AND REVENUE SECRETARIAT

No. 1038

Dated, Bangalore, 22nd December 38.

Muz 193-38

To

Mr. Bandi Mallaiya of Kankanhalli,
C/O, K.N. Srinivasan, Esq., M.A., LL.B.,
Advocate, Bangalore City.

With reference to his petition dated 14th December 1938 appealing against the Muzrai Commissioner's Order in the matter of leasing out certain lands belonging to Sri Begila Mutt of Kankanhalli, Mr. Bandi Mallaiya is informed that the Muzrai Commissioner has been requested to hold in abeyance his order about the execution of the lease deeds pending disposal of the appeal filed by the appellant.

By Order,

General Secretary to Government

Aga/2.

Appendix F G—1]

SUBJECT .....

.....

.....

2 Cl

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *193* .

Date of issue 22/12/38

Signed by Mr. S.K.V. Iyer

List of enclosures.....

Copied by .....

Examined by.....

Section Mem

File No. 193-38

Serial No

No. 1035

To

M/ Bandi Mallaiya —o—
Kankanhalli C/o
K. N. Srinivasa Esq M.A. B.L.
Advocate —
Bangalore City

Ltr regd in his pet dt 14.12.38 appealing against the M.C's order in the matter of the sale of certain lands belonging to Sri Degula Mutt of Kankanhalli, Sri Bandi Mallaiya is informed that the M.C has been directed to withdraw his order

WD 0521—GPB—30,000—12-3 37

Appeal filed ~~in~~ the appellant.

Muz 193-38-8.

M. C. 18] No. C993/38-9
& 6 files.

OFFICE OF THE MUZRAI COMMISSIONER
IN MYSORE,

Bangalore, 7th March *1939.*

FROM

S. ABDUL WAJID, Esq., B.A.,
Muzrai Commissioner in Mysore.

To

J. Appaji Gowda, Esq., B.A. (Hon.),
Secretary to the Government of His Highness
the Maharaja of Mysore,
General *Department.*

8 MAR 1939

GENERAL SECRETARY.
8 MAR 1939

Appeal of Bandi Mallayya of Kankanhalli, re:
resumption of the Devadaya Inam lands
belonging to the Degila Mutt,
from his possession.

With reference to your letter No.1023/Muz.193-38-8 dated 21-12-38 calling for the records connected with the above, I have the honor to forward herewith the entire file of vernacular records together with his office file, received from the Deputy Commissioner, Bangalore District, with his letter No.C3-2702/37-38 dated 28-2-1939. This office file leading to the Order appealed against (App.23/37-38) is also enclosed, as required.

I have the honor to be,

Sir,

Your most obedient servant,

Muzrai Commissioner.

PP 1-6.

1151

Survey 193-38-4

Rev. 21]

Before the Government of His Highness the Maharaja of Mysore.

Misc. Appeal No. 11 of 1938-39

Appellant.

Bansi Maharaja
Kankanhalli.

Vs.

Respondent

The Swamiyaru
of Sri Regila
Mutt at Kankanha
by his Agent

Subject.

Appeal against the M-C's order in the matter of his claim for certain encroached lands on the bank of the Arkavati river adjacent to the lands of Sri Regila Mutt at Kankanhalli.

TYPING SECTION
7 SEP 1939

Orders of the Asst. Sec.
2 Sept 39

WD 0593—GPB—750—21-7-37

The facts of the case are briefly as follows:-

The inam lands endowed to the Sri Degila Mutt which were alienated by the Swami of the Mutt, were resumed from the possession of the alienees under orders of Government, but with a view to mitigate the hardships on the part of the alienees, Government directed the lease of lands to the respective alienees for a fairly long period. The Deputy Commissioner, Bangalore District, having submitted proposals showing the extent of land to be leased out, their assessment and the gutta that may be fixed etc., orders were issued by the Muzrai Commissioner in his order No. R. Dis. 24/35-36 dated the 7th August 1936 to lease out the lands to the respective alienees for a period of 25 years at rates noted against each Survey No. subject however to the condition - that " the lease will be liable to cancellation at any time if the garden lands are not kept in proper condition. " The area of the Survey numbers adopted in the above was as per re-survey measurements.

2. The appellant is one of the lessees who is in possession of the marginally noted survey

survey numbers. In connection with the execution of the lease deed he contends that the portions encroached on by him upon the Arkavati river bed viz., 30 guntas in all as noted in the margin should not be included in the extent of lease and that there should not be a specific condition that fresh plants should be planted in place of the old or dead ones. It is seen from the records that the tenants of the Mutt lands had encroached upon the Arkavati river bed and the matter was brought on to record in 1927 and after issue of notices by the to the authorities and the tenants, the encroached portions were confirmed to the respective tenants on receiving nazrana from them, etc. The Amildar disclaimed any responsibility for the encroachment. During the survey, the encroached portions have not been added to the respective survey numbers. The appellant contends that as he had paid for the encroached portions which have been confirmed to him, they should not be included in the area to be leased out. The Amildar of ... in his report dated the 16th January 1934 doubts that as the tenants have paid for the encroachments out of the lease deed they cannot claim the lands to themselves, more so as the lands are included in the survey numbers belonging to the Mutt and that these portions may be detained to the Mutt, if necessary by paying the amount recovered from them, out of the Mutt funds.

Survey No.	Old Extent.	No. of pre-survey extent.	Difference.
274	0 - 0	0 - 3	
275	3 - 12	2 - 25	0 - 8
276	32	32	3
251	1 24	1 - 0	16
	6-30	7-20	C -30

The case was heard by the Muzrai Commissioner on the 22nd August 1938.

In his order the Muzrai Commissioner observed that the appellant was enabled to encroach on the river-bed because of his cultivating the ~~xxx xxxxx~~ Mutt lands on the banks of river and that he was allowed to retain the land because he was in possession of the adjoining lands and that it was therefore equitable that the encroached bits should go with the survey numbers which they adjoin. He further stated that at the re-survey the encroached portions were merged in the adjoining survey numbers and that the Swami was also agreeable to reimburse to the appellant what he had paid as upset price and fine for the encroached lands. He accordingly ordered that this was a fair arrangement which might be given effect to. This order has now been appealed against.

The case came on for hearing on the 26th of Aug 1939; the Appellant with his Counsel & the Swamikalu of Sri Jegila Mutt with his agent were present & were heard.

Order No. 566 / Survey 193-38-4. dt 15-9-39 Dve Nundy

The encroached portions were given to the owners of the adjoining lands & were eventually merged in the respective Survey numbers — the appellant cannot have any larger rights in respect of the encroached bits than he possess over the Survey Numbers originally in his possession It has been since held that his status is that of a tenant of the Mutt & this decision must apply to both classes of land. If the upset value & fine have been collected from the appellant, it is but just that he should be reimbursed to the extent of the payments made by him — the Mutt has agreed to this & the M.C has also agreed that effect should be given to the order made in this behalf by the Mutt.

On the circumstances,

C.T.O

the appellant has no legitimate cause for complaint — the appeal is dismissed

for Gen Sec to Govt

To

The M.C. both ways.

Memo No 567
15-9-39.

Copy to Bandi Manaiya of Kankanhalli
C/o. Mr K.N. Srinivasan M.A. LLB.
Advocate Bangalore City
for information.

B.O

for

Memo No 568
15-9-39.

for Gen Sec to Govt
Copy to the Inamdar of Degulavandi
Kankanhalli by his request. for his information

B.O

for

for Gen Sec

G
6/9/39

BANGALORE
PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
xxxxxxxxxxxx xx
THE MAHARAJA OF MYSORE.

'uz. Appeal No.11 of 193[illegible]-3[illegible].

Read:—
xxxx

Appellant. -vs- Respondent.

[illegible]andi Mallaiya, Kankanhalli. [illegible]he Swamiji of Sri Bejila Mutt at Kankanhalli by Agent.

ORDER.

Appeal against the 'uzrai Commissioner's order in the matter of his claim for certain encroached lands on the bank of the Arkavati river adjacent to the lands of Sri Bejila Mutt at Kankanhalli.

The facts of the case are briefly as follows:-

The inam lands endowed to the Sri Bejila Mutt which were alienated by the Swamiji of the Mutt, were resumed from the possession of the alienees under orders of Government, but with a view to mitigate the hardships on the part of the alienees, Government directed the lease of lands to the respective alienees for a fairly long period. The Deputy Commissioner, Bangalore District, having submitted proposals showing the extent of land to be leased out, the assessment and the gutta that may be fixed etc., orders were issued by the 'uzrai Commissioner in his order [illegible].Dis.24/35-36 dated the 7th August 1936 to lease out the lands to the respective alienees for a period of 25 years at rates noted against each Survey No. subject however, to the conditions - that "the lease will be liable to cancellation at any time if the garden lands are not kept in proper condition." The area of the Survey numbers adopted in the above as per re-survey measurements.

2. The appellant is one of the lessees who is in possession of the marginally noted survey numbers. In connection with the execution of the lease deed he contends that the

S.No.	Old extent.	S.No. of re-survey	extent.	Difference	Remarks
274	2- 0	29[illegible]	2- 3	0- 3	[illegible]
275	2-14	3[illegible]	2-22	0- 8	[illegible]
276	32	29[illegible]	35	3	[illegible]
251	1-24	274	2- 0	1[illegible]	[illegible]

all as noted in the margin should not be [illegible] of lease and that there should not be [illegible] fresh plants should be planted in place of the old or [illegible] ones. It is seen from the records that [illegible] all lands and encroached upon the [illegible] that the Mutt has been in possession [illegible] of the lease of lands to the Mutt [illegible] the tenants the encroached lands [illegible] the said lands of a small [illegible]

28

five and ten years' assessment, as the Tahsildar could any responsibility for the encroachment. During the re-survey the encroached portions have all been given to the respective survey numbers. The appellant contends that as he had paid for the encroached portions which have been conferred to him they should not be included in the area to be leased out. The Swamigala of the Mutt in his statement dated the 15th January 1938, states that as the tenants have risen for the encroachment out of the lease amount due to the Mutt they cannot claim the lands for themselves, more so, as the lands are included in the survey numbers belonging to the Mutt and that these portions may be obtained by the Mutt, if necessary by paying the amount recovered from them, out of the Mutt funds.

In his order, the Special Assistant observed that the appellant was enabled to encroach on the river-bed because of his cultivating the Mutt lands on the banks of the river and that he was allowed to retain the land because he was in possession of the adjoining lands and that it was therefore equitable that the encroached lots should go with the survey numbers which they adjoin. He further stated that at the re-survey the encroached portions were assigned to the adjoining survey numbers and that the Board was also agreeable to refund to the appellant what he had paid as assessment price and fine for the encroached lands. He accordingly ordered that this was a fair arrangement which might be given effect to. The order has now been appealed against.

The case came on for hearing on the 24th of August last; the appellant with his counsel and the [illegible] of the Legala Mutt with his agent [illegible] appeared.

Order. 566/Survey 193-38-4

Dated, Bangalore, the 15th October 1938.

The encroached portions were given to the respective adjoining lands and were given to the respective survey numbers. The appellant cannot have any grievance in respect of the encroached lots to be assessed [illegible] survey numbers originally in his possession. It has been held that the Settlement Officer has the power [illegible] and this discretion must apply to both classes of land. The [illegible] value and fine have been collected from the appellant, it is but just that he should be given the benefit of the payment made by the Mutt on account of [illegible] the Special Assistant's order [illegible] should be given to him out of the [illegible].

In the circumstances the appeal is allowed and the order of the Special Assistant is set aside.

To

The Special Assistant [illegible]

...O.